

Senate Bill No. 1240

CHAPTER 21

An act to amend Sections 123280, 123310, and 123315 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 3, 1999. Filed with
Secretary of State May 4, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1240, Burton. Maternal and child health: food program: vendors.

Existing law authorizes the State Department of Health Services to conduct a statewide program, to be known as the Special Supplemental Food Program for Women, Infants, and Children, for providing nutritional food supplements to low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under 5 years of age, who have been determined to be at nutritional risk by a health professional, based on criteria established by the department.

Existing law requires the department, under any program established pursuant to these provisions, to authorize retail food vendors, by written agreement, to accept nutrition coupons, and requires the department to establish specified criteria to limit the number of retail food vendors with which the department enters into agreements. The specified criteria includes the prices the vendor charges for foods in relation to other stores in the area.

This bill would instead include among the specified criteria the prices the vendor charges for foods in relation to other peer groups, as defined. The bill would require the department to authorize retail food vendors, by written agreement, to also accept reimbursement, according to the system developed by the department, in addition to food coupons.

Existing law requires the department to ensure that, at a minimum, an authorized vendor take specified actions with respect to the programs.

This bill would include among these specified actions that a vendor accept up to the maximum allowable department reimbursement as payment in full for the maximum allowable quantity of food listed on the food instrument, and comply with department rules of vendor authorization, reimbursement, and monitoring that control program food costs, maximize participant access, and ensure program integrity.

The bill would also require the department to administer these provisions and to adopt minimum standards and regulations.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 123280 of the Health and Safety Code is amended to read:

123280. (a) The department may conduct a statewide program for providing nutritional food supplements to low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under five years of age, who have been determined to be at nutritional risk by a health professional, based on criteria established by the department. Any program established pursuant to this section shall do all of the following:

(1) Comply with all the requirements of this article.

(2) Be conducted only if a special project is authorized by inclusion in the Budget Act or notification is provided to the Legislature pursuant to Section 28 of the Budget Act, and federal funds are appropriated therefor.

(3) Be known as the California Special Supplemental Food Program for Women, Infants, and Children.

(b) The department shall administer this article and shall adopt minimum standards and regulations as necessary.

SEC. 2. Section 123310 of the Health and Safety Code is amended to read:

123310. The department, under any program established pursuant to this article, shall authorize retail food vendors, by written agreement, to accept nutrition coupons and reimbursement according to the system developed by the department. The department shall authorize an appropriate number and distribution of food vendors in order to assure adequate participant convenience and access and to assure that state or local officials can effectively manage review of authorized food vendors in their jurisdictions. The department shall establish criteria to limit the number of retail food vendors with which the department enters into agreements. The criteria, at a minimum, shall include:

(a) The prices the vendor charges for foods in relation to other vendors in its peer group. For purposes of this subdivision, “peer group” means a group of vendors with similar characteristics that may include, but shall not be limited to, any or all of the following:

(1) Geographic location of the store.

(2) Store size.

(3) Type of store.

(4) Number of cash registers.

(5) Sales volume relating to any program established pursuant to this article.

(6) Gross sales volume.

(7) Inventory.

(8) Other vendor characteristics established by the department.

(b) The ability of the department to ensure that authorized supplemental foods will be provided through in-store compliance purchases.

(c) The adequacy of the shelf stock of the authorized supplemental foods.

(d) Past performance of the vendor in compliance with this article and with the Food Stamp Program.

SEC. 3. Section 123315 of the Health and Safety Code is amended to read:

123315. (a) The department, under any program established pursuant to this article, shall ensure that, at a minimum, the authorized vendor shall do all of the following:

(1) Redeem nutrition coupons only from persons bearing appropriate identification provided by the department.

(2) Redeem nutrition coupons for only those foods specified thereon.

(3) Redeem nutrition coupons at an amount that is the same as, or lesser than, that charged other customers for identical foods.

(4) Redeem and deposit nutrition coupons during specified valid periods.

(5) Deposit the nutrition coupons directly in the vendor's bank account and not transfer them for cash payment, credit, or any other benefit to any party other than the vendor's bank or the state.

(6) Maintain for a period of at least three years records that shall include, but not be limited to, all of the following:

(A) Inventory records showing all purchases, both wholesale and retail, in the form of invoices that identify the quantity and prices of specified authorized supplemental foods.

(B) Sales and use tax returns.

(C) Books of account.

(D) Other pertinent records that the department determines are necessary to substantiate the volume and prices charged to the state department through the nutrition coupons redeemed by the vendor.

(7) Accept up to the maximum allowable department reimbursement as payment in full for the maximum allowable quantity of food listed on the food instrument.

(8) Comply with department rules of vendor authorization, reimbursement, and monitoring that control program food costs, maximize participant access, and ensure program integrity.

(b) The department shall adopt regulations to implement this section and Section 123310 in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulations on or after January 1, 2000, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the implementation of provisions designed to ensure the integrity of the Special Supplemental Food Program for Women, Infants, and Children as soon as possible, it is necessary that this act take effect immediately.

